

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Patrick L. Knueven,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1083
Parcel No. 060/07824-006-000

On March 8, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Patrick Knueven, was self-represented. Assistant County Attorney David Hibbard represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Patrick Knueven, is the owner of property located at 1230 Williams Street, Des Moines, Iowa. The real estate was classified residential on the January 1, 2011, assessment. It was valued at \$105,000, representing \$11,500 in land value and \$93,500 in improvement value. Knueven protested the assessment to the Polk County Board of Review on the grounds the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); the property was assessed for more than authorized by law under section 441.37(1)(a)(2); and there was an error in the assessment under section 441.37(1)(a)(4). Essentially, we find his error claim reasserts that his property is over-assessed. Knueven also asserted that there has been a downward change in value

since the last assessment under 441.37(1)(b) and 441.35(2). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim. However, his claim essentially reasserted his belief that the subject property was over-assessed. Knueven believed the correct value was \$100,000. The Board of Review denied the protest.

Knueven then appealed to this Board asserting simply that the “amount is incorrect” and that the correct value is \$90,000. We will consider his inequity and over assessment claims.

According to the property record card, Knueven’s property is two-story home built in 1979. It has 1456 square feet of above-grade living area and a full, unfinished basement. It also a 576 square-foot detached garage built in 1979. The subject site is 0.173-acres.

In his Board of Review petition, Knueven listed six properties, all located on the east side of Williams Street, for equity comparison. He provided a handwritten page identifying the house number and the total assessed value for 2010 and 2011. He asserts that because the average reduction from the 2010 to 2011 assessments for these six properties was roughly \$1950, his property should receive the same reduction. He notes that his property assessment increased by \$3100 between the 2010 and 2011 assessment. Ultimately, he seeks a \$5000 reduction to account for the combined reduction to the other properties, as well as, the increase of his property.

He provided no evidence about his comparable properties for this Board to determine if they were indeed similar to his in style, size, age, and amenities; and, in fact, he testified that “there weren’t any two homes alike” on this street. Therefore, the evidence does not indicate these properties are sufficiently similar to be considered comparable. Finally, there has been no analysis of the assessments of these properties or evidence of their market values to conduct a sale-ratio analysis. For these reasons, the evidence is insufficient for an equity claim and we give it no consideration.

Knueven did not provide any evidence of the subject property's fair market value as of January 1, 2011, such as an appraisal of the subject or recent, adjusted sales of comparable properties.

Therefore, he has not met his evidentiary burden to succeed on his over assessment claim.

The Board of Review did not submit any evidence.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may

be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Knueven submitted six properties he considered for equity comparison. However, he did not provide any information about the properties from which this Board can determine if they are in fact similar enough to the subject to be considered comparable. Additionally, Knueven did not submit evidence of the properties' market values to compare to their assessments for the development of a sale-ratio analysis. Knueven did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

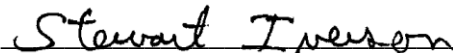
subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Knueven did not provide any evidence of the fair market value of the subject property as of January 1, 2011, such as an appraisal or recent, adjusted sales of comparable properties. Thus, he failed to establish his property is over assessed.

THE APPEAL BOARD ORDERS the assessment of the Patrick Knueven's property located at 1230 Williams Street, Des Moines, Iowa, is affirmed with a total value of \$105,000 allocated as \$11,500 in land value and \$93,500 in improvement value as of January 1, 2011.

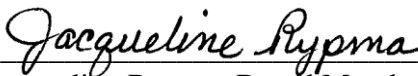
Dated this 9th day of April, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on April 9, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature _____

